

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

APRIL MAE DENNISON,

Plaintiff,

v.

ANDREW SAUL, Commissioner of
Social Security,

Defendant.

Case No. 1:21-cv-00282-BAM

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF'S MOTION
FOR LEAVE TO PROCEED IN FORMA
PAUPERIS BE DENIED

(Doc. 2)

FOURTEEN (14) DAY DEADLINE

Plaintiff April Mae Dennison ("Plaintiff"), proceeding with counsel, seeks review of a decision of the Commissioner of Social Security. Plaintiff initiated this action on February 26, 2021. (Doc. 1). On the same day, Plaintiff filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 2). According to Plaintiff's application, she is not currently employed, but she receives \$1,675.00 per month from her ex-husband for rent and for credit card debt. She does not have any identified dependents. (*Id.* at 1-2.)

Having considered Plaintiff's application, the Court finds that she has not made the showing required by section 1915 that she is unable to pay the required fees for this action.

1 Plaintiff's action reveals that she receives \$1,675.00 monthly, which amounts to an annual
2 income of \$20,100.00.

3 Many courts look to the federal poverty guidelines set by the United States Department of
4 Health and Human Services ("HHS") as a guidepost in evaluating in forma pauperis applications.
5 *See Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 n.5 (11th Cir. 2004); *Boulas v. United*
6 *States Postal Serv.*, No. 1:18-cv-01163-LJO-BAM, 2018 WL 6615075, at *1 (E.D. Cal. Nov. 1,
7 2018) (applying federal poverty guidelines to in forma pauperis application). For a family or
8 household of one, the 2021 poverty guideline is \$12,880.00. *See U.S. Federal Poverty Guidelines*
9 *Used to Determine Financial Eligibility for Certain Federal Programs*, available at
10 <https://aspe.hhs.gov/poverty-guidelines> (last visited March 5, 2021). Plaintiff's estimated annual
11 income exceeds this amount. She also has not identified monthly expenses that exceed her
12 monthly income. *Lopez-Ruiz v. Tripler Army Med. Ctr.'s Postdoctoral Fellowship in Clinical*
13 *Psychology*, No. CV. 11-0066 JMS/BMK, 2011 WL 486952, at *1 (D. Haw. Feb. 4, 2011)
14 (denying in forma pauperis status to plaintiff whose income was \$1,800 per month and whose
15 monthly income exceeded monthly expenses).

16 Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a
17 District Judge to this action.

18 Furthermore, it is HEREBY RECOMMENDED that:

- 19 1. Plaintiff's application to proceed without prepayment of fees and costs (Doc. 2) be
20 DENIED; and
- 21 2. Plaintiff be required to pay the \$402.00 filing fee in full to proceed with this
22 action.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
25 **(14) days** after being served with these findings and recommendations, Plaintiff may file written
26 objections with the Court. Such a document should be captioned "Objections to Magistrate
27 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within
28 the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d

834, 838-39 (9th Cir. 2014) (*citing Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: March 5, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE